

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TYRONE A. BELL,

Plaintiff,

v.

HEIDI WASHINGTON, et al.,

Defendants.

Case No. 2:21-cv-12481

HONORABLE STEPHEN J. MURPHY, III

ORDER STRIKING SUR-REPLY [61]

A fully briefed motion for summary judgment is pending before the Court. ECF 39; 49–51. Plaintiff filed an “objection[] to MDOC Defendants’ Reply Brief.” ECF 61, PgID 672. But Plaintiff did not move for leave to file a sur-reply. At any rate, “[s]ur-replies generally are disfavored.” *NOCO Co. v. Shenzhen Valuelink E-Com. Co.*, 550 F. Supp. 3d 488, 499 (N.D. Ohio 2021). The Court rarely allows a party to file a sur-reply. The Court will allow a sur-reply “when new submissions and/or arguments are included in a reply brief, and a nonmovant’s ability to respond to the new evidence has been vitiated.” *Seay v. TVA*, 339 F.3d 454, 481 (6th Cir. 2003) (citations omitted). But Defendants raised no new arguments in their reply brief. *See* ECF 51. The Court will therefore deny Plaintiff leave to file a sur-reply and order the Clerk of the Court to strike the filing, ECF 61.

The Court will again “advise Plaintiff that he should avoid filing future motions [or other filings] that are similarly frivolous.” ECF 47, PgID 552. Failure to

heed the Court's final warning will require Plaintiff to seek leave from the Court before he can submit any future filings.

WHEREFORE, it is hereby **ORDERED** that the Clerk of the Court must **STRIKE** Plaintiff's objection [61].

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: August 22, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 22, 2022, by electronic and/or ordinary mail.

s/ David P. Parker
Case Manager